JD–68–15
Gary, IN

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

MINTEQ INTERNATIONAL, INC., AND
SPECIALTY MINERALS, INC., WHOLLY
OWNED SUBSIDIARIES OF MINERAL
TECHNOLOGIES, INC.

and Case 13–CA–139974

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL, 150, AFL-CIO

Christina B. Hill, Esq., for the General Counsel.
Jonathan O. Levine and Adam-Paul Tuzzo, Esqs. (Littler Mendelson, LLC, Milwaukee, Wisconsin), for the Respondent.
Charles R. Kiser, Esq., (Local 150 Legal Department, Countryside, Illinois) for the Charging Party.

DECISION

STATEMENT OF THE CASE

Arthur J. Amchan, Administrative Law Judge. This case was tried in Chicago, Illinois on October 26, 2015. Operating Engineers Local 150 filed the charge on October 20, 2014. The General Counsel issued the complaint on July 31, 2015 and an amended complaint on October 9, 2015. The General Counsel alleges that Respondent violated Section 8(a)(5) and (1) of the Act by directly dealing with represented employees by requiring them to sign a Non-Compete and Confidentiality Agreement (NCCA) as a condition of their continued employment and implementing, maintaining and enforcing the Agreement without prior notice to the Union and affording it the opportunity to bargain about this Agreement or its effects.

The General Counsel also alleges that Respondent is violating Section 8(a)(1) by maintaining Sections 2, 4, 12 and 13 of the NCCA.

On the entire record,[1] including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel, Respondent and Charging Party, I make the following

[1] The list of exhibits at the beginning of the transcript and the bound exhibits themselves incorrectly indicate that G.C. Exh. 6, Jt. Exh. 5 and Jt. Exh. 6 were not received into evidence. These exhibits were received at Tr. 154-56.
The General Counsel's joint motion to correct the transcript is granted.

Findings of Fact

I. JURISDICTION

Respondent,[2] a Delaware corporation, has an office and place of business in Gary, Indiana. It is engaged in the business of providing monolithic and pre-cast refractory products and related systems and services to the steel industry. Respondent annually purchases and receives goods valued in excess of $50,000 directly from places outside of Indiana. Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union, International Union of Operating Engineers, Local 150, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

Respondent works as a contractor at ArcelorMittal's Burns Harbor, Indiana Steel Mill, as well as the USX mills in Gary, Indiana. One of the services it provides is patching the inside of the furnaces. Minteq does this by spraying its monolithic (liquid state) product into the furnace. The employees who perform this task are called "gunners." They spray Minteq's product into the mouth of the furnaces with a long galvanized pipe mounted on a forklift. "Gunners" must undergo several months of on-the-job training before they can perform their tasks on their own. Minteq's product is proprietary and confidential.

The "gunners" are represented by the Charging Party Union, Operating Engineers Local 150. Respondent and the Union had a collective bargaining agreement that ran from January 1, 2011 to December 31, 2014, Jt. Exh. 3. In November and December 2014, they negotiated a new contract which runs from January 1, 2014 to December 31, 2019, Jt. Exh. 1.

ArcelorMittal and perhaps prior owners of the mill have switched back and forth between a number of contractors doing this furnace patching work. Minteq had the subcontract to patch all three furnaces at Burns Harbor from about 1999 to 2009. Later a company named Nucon had the contract for the three furnaces. Then Minteq recaptured the work for one furnace and then for all 3. In the fall of 2014 ArcelorMittal gave the work on one furnace to a company named Magnesita, on a trial basis. Several of Minteq's "gunners," Charles Spear, Dennis and Dustin Sharp and Nicholas Carrillo, went to work for Magnesita.[3]

On or about September 29, 2014, Spear received a letter from Minteq.[4] It said in pertinent part that Minteq, Minerals Technologies and its subsidiaries possess a great deal of confidential business information and proprietary technology. It gave as examples: data,

[2] Although Respondent answered the initial complaint on behalf of Minteq International, Inc., Specialty Minerals, Inc. and Minerals Technology, Inc., it later contended that only Minteq was the correct Respondent. I reject this contention. The Joint Exhibits showed that some unit employees signed the Non-Compete and Confidentiality Agreements with Minteq and others signed such an Agreement with Specialty Minerals.

[3] Magnesita subsequently lost the contract and all 4 employees were apparently laid off.

[4] Spear does not recall the September 29 letter. However, it appears that Respondent sent him a similar letter on October 17, followed by the October 23 letter, which is discussed below.

formulas, know-how and processes. The letter states that during Spear's employment he had been provided, or had access to, such information.

The letter stated further:

> Both the law and any agreement you signed when you came to work for the Company prohibit any use or disclosure of such information after you leave. If you take employment with a competitor of the company, it is especially important that you take care not to violate your obligations to keep any information confidential.

Minteq stated that it considers the material described in the letter as its intellectual property and that it would not hesitate to take legal action to protect it.

The letter did not specifically state that Spear was prohibited from working for a competitor and was very unspecific as to what he must not do to avoid being sued by Minteq.

However, Minteq sent Spear another letter on October 23, 2013 in which it stated:

> By this letter we remind both you and MAGNESITA of your obligation to refrain from working for a competitor of MINTEQ for a period of eighteen months following the termination of your employment with MINTEQ. A copy of the Non-Compete and Confidentiality Agreement you signed in that regard is attached for your reference.
>
> …This obligation means that you cannot work for MAGNESTIA in any capacity in the areas of refractory or metallurgical products or services until April 1, 2016.[5]

Spear applied for work with Minteq and Specialty Minerals on January 24, 2013. Respondent offered Spear employment on March 19, 2013, subject to drug screening, a physical and a background check. He accepted the offer on Thursday, March 21 and reported to Minteq's Portage, Indiana office for orientation the same day. During the two days of orientation, Spear filled out forms, such as his W-4 and I-9 and underwent training on such matters as the OSHA requirements relevant to his job. One of the forms he signed was the Non-Compete and Confidentiality Agreement (NCCA) which contains the language quoted above. Respondent did not explain or discuss the agreement with Spear, it merely had him sign it.

[5] This prohibition emanates from Section 1.2 of the NCCA, which was not the focus of the instant litigation (not mentioned in paragraph V of the complaint; but possibly encompassed by paragraph VII). 1.2 entitled "competitive activities," states that for 18 months following the termination of his or her employment, an employee will not as an employee render services for any person or entity which engages in the business of manufacturing, distribution or sale of products manufactured, distributed or manufactured by the company at the time of the employee's termination…(elsewhere described as refractory products and application methods).

There is no evidence in this record that Minteq employees who were hired by Magnesita, but whose employment with Minteq predated 2012 and the NCCA, received letters like that October 23 letter to Spear. They apparently did not receive letters advising them that they were prohibited from working for a competitor for 18 months. They received letters dated October 17, which advised them that Respondent expected them to maintain the confidentiality of much of the information they had acquired while working for Minteq, Respondent Exhibits R3a –R3c.

Respondent paid Spear for the 17 hours he spent in orientation at the Portage office, Jt. Exh. 2. Minteq recorded Spear's time manually. On Monday, March 25, Spear reported to the Arcelormittal Mill, clocked in and began his training in Minteq's procedures for "gunning" the blast furnaces. He remained a probationary employee for 6 months, Jt. Exh. 1 and 3. Under the parties' collective bargaining agreements, the discharge, discipline or lay-off of a probationary employee was not, and is not, a violation of the collective bargaining agreement.

Although, the parties appear to believe that Spear's status when he signed the agreement to be important to this case (employee or job applicant), Minteq is apparently suing or threatening to sue other employees at common law who went to work for Magnesita, for breach of their fiduciary duties to Minteq. These employees began working for Minteq prior to 2012 and therefore never signed a NCCA.

Respondent maintains the following rules and since 2012 has required new employees to sign a Non-Compete and Confidentiality Agreement that contains the following provisions that allegedly violate the Act.

> "Section 2: CONFIDENTIAL INFORMATION. Employee will maintain in confidence and will not disclose or use, either during or after the term of his or her employment, any proprietary or confidential information or know-how belonging to the Company ("Confidential Information "), whether or not in written form except to the extent required to perform duties on behalf of the Company. Confidential Information refers to any information not generally known in the relevant trade or industry which was obtained from the Company, or which was learned, discovered, developed, conceived, originated, or prepared by me in the scope of my employment. Such Confidential Information includes, but is not limited to, software, technical, and business information relating to the Company inventions or products, research and development, production processes, manufacturing and engineering processes, machines and equipment, finances, customers, marketing, and production and future business plans and any other information which is identified as confidential by the Company. Upon termination of Employee's employment, or at the request of the Employee's supervisor before termination, Employee will deliver to the Company all written and tangible material in Employee's possession incorporating Confidential Information or otherwise relating to the Company's business. These obligations with respect to Confidential Information extend to information belonging to customers and suppliers of the Company which may have been disclosed to the Company or to Employee as the result of his or her status as an employee of the Company...
>
> Section 4: INTERFERENCE WITH RELATIONSHIPS During the Restricted Period [a period commencing on the date hereof and ending eighteen months following termination of Employee's employment with the Company for whatever reason], Employee shall not, directly or indirectly, as employee, agent, consultant, stockholder, director, partner or in any other individual or representative capacity intentionally solicit or encourage any present or future customer or supplier of the Company to terminate or otherwise alter his, her, or its relationship with the Company in an adverse manner...

> Section 12: AT- WILL -EMPLOYEE. Employee acknowledges that this Agreement does not affect Employee's status as an employee-at-will and that no additional right is provided herein which changes such status.
>
> Section 13: REMEDY. Any breach or violation by Employee of the Agreement will result in immediate and irreparable injury to the Company in amounts difficult to ascertain. Therefore in the event of such breach or violation, employee agrees the Company shall be entitled to proceed directly to court to obtain the remedies of specific performance and injunctive relief without the necessity of posting a bond or other undertakings therewith.

Analysis

There are no material facts in dispute in this case. However, there are a number of legal issues upon which Respondent takes a markedly different view than the General Counsel and the Union. These include whether the NCCA constitutes a mandatory subject of bargaining, whether the complaint is time barred pursuant to Section 10(b) of the Act, whether Charles Spear was an "employee" or "bargaining unit employee" when he signed the NCCA, whether Respondent violated Section 8(a)(5) and (1) by dealing directly with employees by insisting they sign the NCCA during their new employee orientation and whether Respondent violated Section 8(a)(1) in maintaining certain sections (2, 4. 12 and 13) of the NCCA,

Also at issue is whether the Union waived its bargaining rights with regard to the NCCA, by not demanding bargaining about it in its November and December 2014 collective bargaining negotiations with Respondent.

Sections 2 and 13 of the NCCA are mandatory subjects of bargaining

In some situations, I would conclude that a confidentiality pledge is not a mandatory subject of bargaining and is exempt from bargaining even if it arguably impacts the employment relationship pursuant to *First National Maintenance Corp. v. NLRB,* 452 U.S. 666, 679 (1981). This is the case, for example, when the burden placed on the conduct of the employer's business far outweighs the benefit for labor-management relations and the collective bargaining process.

An example would be if employees of Coca Cola (assuming they were represented), who had knowledge of a new formula for Coke, were required to sign a document promising not to divulge that formula to anyone not authorized to know it—upon pain of termination. Similarly, if Respondent were to inform its employees and/ or job applicants that the formula for its "monolithic product" is a trade secret and is not to be disclosed to anyone outside the company, I believe that would be exempt from bargaining. Such decisions would lie at the core of entrepreneurial control and thus would not be mandatory subjects of bargaining, *Fibreboard Products v. NLRB,* 379 U.S. 203 (1964).

However, in the instant case, I find that it is the ambiguity of Respondent's confidentiality rules that makes it a mandatory subject of bargaining. Under the principles in *Dubuque Packing Company, Inc.,* 303 NLRB 386 (1991) the issue of a bargaining obligation

focuses on whether the employer's decision is amenable to bargaining.[6] While in some cases, such as the Coca Cola example, the decision is clearly not amenable to bargaining; in others it is. In the instant case the ambiguity of the NCCA renders it particularly amenable to bargaining. It is difficult to determine from the NCCA and the letters sent to former Minteq employees what exactly they are prohibited from doing. Bargaining with the Union might help to clarify what Section 2 of the NCCA actually prohibits.

Section 2 forbids the new employee (or job applicant) to disclose confidential information ***during*** and after the term of his or her employment. Thus, I assume an employee could be disciplined or fired for disclosing any information the Respondent considers confidential or proprietary. Thus, section 2 clearly impacts a term and condition of employment. The parties' focus on whether Charles Spear or other persons were employees or merely applicants when they signed the NCCA is beside the point—given the consequences of violating the terms of section 2 ***during*** their employment with Minteq.[7]

Due to the ambiguity of Section 2, Section 13 could be reasonably read to inflict punishment on an employee for engaging in protected conduct. Thus, I conclude that Section 13 affects terms and conditions of employment. Therefore, I find Section 13 is also a mandatory subject of bargaining. The Union and employees are entitled to know just what sort of disclosures will subject employees to injunctive relief.

Sections 4 and 12 of the NCAA are not mandatory subjects of bargaining

The General Counsel appears to contend that all the provisions of the NCCA are mandatory subjects of bargaining. I conclude that Sections 4 (interference with relationships) and 12 (at-will employment) must be analyzed independently of Sections 2 and 13. The issue of whether Sections 4 and 12 are mandatory subjects of bargaining is closely related to whether they are overly broad, i.e., could be reasonably interpreted to chill employees' section 7 rights. As I discuss below, I find they cannot be so reasonably interpreted. Therefore, I find that they do not pertain to the wages, hours and other terms and conditions of employment of Minteq employees. As I result I find these sections are not mandatory subjects of bargaining. Moreover, as to section 12, the Union and Employer have bargained over its subject matter and have agreed that new employees are probationary employees to whom the grievance procedures of the collective bargaining agreement do not apply. Thus, even if Section 12 were a mandatory subject of bargaining, I conclude Respondent met its bargaining obligations.

With regard to section 4, the Board found in *Mental Health Services, Northwest,* 300 NLRB 926 (1990) that an employer violated the Act in insisting to impasse in bargaining on a permissive subject of bargaining. The proposal in question was a provision prohibiting the Union from lobbying for measures that would adversely affect the employer's funding from Hamilton County, Ohio. The provisions of Section 4 of the NCCA are analogous to that in

[6] The *Dubuque Packing* decision is limited to employer decisions to relocate work. However, it is useful to this case by analogy.

[7] Additionally, by prohibiting employees from working for a competitor under any condition in section 1.2, Respondent may have also markedly compromised the bargaining power of its employees while they worked for Minteq. However, since Section 1.2 was not fairly litigated before me, I do not reach the issue of whether Respondent violated the Act in unilaterally implementing it.

Mental Health Services, Northwest. Unless section 4 "interference with relationships" is read to affect section 7 rights, which I do not, I find that it a permissive, rather than mandatory subject of bargaining.

The Section 10(b) issue

I conclude there is absolutely no merit to Respondent's Section 10(b) defense. Respondent began requiring new employees to sign the NCCA during the new employee orientation in 2012. Charles Spear signed the NCCA during his new employee orientation in March 2013. The initial charge in this matter was not filed until October 30, 2014, well beyond the 6-month period prescribed in Section 10(b). However, the six-month limitation period does not begin to run until the party adversely affected receives actual or constructive notice of the unfair labor practice, *Leach Corp.,* 312 NLRB 990 (1990). In this case, the Union did not receive actual or constructive notice until October 2014, when Charles Spear brought the NCCA to the Union's attention.

There is no evidence that any union official, including union stewards, were aware of the NCCA prior to October 2014. There was no reason for any union official to suspect the existence of the NCCA. The only employees who knew of its existence were the new employees who signed the NCCA. Even those employees are likely not to have read the document or have had any understanding of its significance.

Was Charles Spear an "employee" or "job applicant" when he signed the NCCA?

In *Star Tribune,* 295 NLRB 543 (1989) the Board held that applicants for employment are not employees with the meaning of the collective bargaining obligations of the Act.[8] Thus, the Board found that the applicants for employment in that case were not bargaining unit employees and thus the employer did not have to offer the Union an opportunity to bargain about pre-employment drug and alcohol testing. In *Postal Service,* 308 NLRB 1305 (1992) the Board held that the employer was not required to bargain with its union over its hiring practices.

Whether or not Charles Spear was a bargaining unit employee when he signed the NCCA is not dispositive of this case. Section 2 of the NCCA governed his conduct throughout his employment with Minteq.

Waiver

Respondent argues that the Union waived its bargaining rights by not requesting bargaining over the NCCA in the parties' November and December contract negotiations. I reject this contention in that Respondent had presented the Union with a *fait accompli*. It required a number of employees to sign the NCCA prior to commencement of these negotiations. An employer cannot implement a change and then claim that a union waived its right to bargain by failing to do so retroactively, *Intersystems Design Corp.,* 278 NLRB 759 (1986). "To be timely, the notice must be given sufficiently in advance of actual implementation of the change

[8] However, job applicants are clearly "employees" within the meaning of Section 2(3) of the Act. It is a violation of the Act to discriminate against job applicants for engaging in protected activity,

to allow a reasonable opportunity to bargain," *Ciba-Geigy Pharmaceuticals Division,* 254 NLRB 1013, 1017 (1982, *Pontiac Osteopathic Hospital,* 336 NLRB 1021, 1023-23 (2001).

The Alleged Overbroad Rules in Sections 2, 4, 12 and 13 of the NCCA

The Board has held that an employer violates Section 8(a)(1) when it maintains a work rule that reasonably tends to chill employees in the exercise of their Section 7 rights, *Lafayette Park Hotel,* 326 NLRB 824, 825 (1998). A rule is unlawful if it explicitly restricts activities protected by Section 7. If this is not true, a violation is established by a showing that 1) employees would reasonably construe the language to prohibit Section 7 activity; 2) that the rule was promulgated in response to protected activity or 3) that the rule has been applied to restrict the exercise of Section 7 rights, *Lutheran Heritage Village-Livonia,* 343 NLRB 646, 647 (2004).

Sections 2, 4, 12 and 13 of the NCCA do not explicitly restrict protected activity and were not applied to restrict protected activity. Since they were not promulgated in response to protected activity, these sections could only be considered violative if an employee could reasonably construe them to prohibit Section 7 activity. While it is possible that an employee could construe Sections 4 and 12 to inhibit protected activity, such a reading would not be reasonable.

Sections 2 and 13, however, are in an entirely different category. Section 2 is so ambiguous that an employee could reasonably read it to prohibit protected activity. The catchall phrase "any other information which is identified as confidential by company" could reasonably be read to include wages and benefits. Given the fact that Section 13 threatens the employee with punishment for anything Minteq decides is confidential, I find that Sections 2 and 13 restrain employees in the exercise of their Section 7 rights and violate Section 8(a)(1).

On the other hand, it would be quite an extrapolation from Section 4 to conclude that employees were prohibited, for example, from striking, because it would interfere with Minteq's relationship with suppliers or customers. Similarly, if any employee, or employees, seeks the aid of a customer or supplier in a labor dispute, they are not seeking to get that company to terminate or alter that company's relationship with Minteq. The employees would be seeking rather to enlist the support of the customer or supplier in altering the relationship between Minteq and the employees.

Section 12 merely advises the new hire that he or she is an at-will employee and that nothing in the NCCA affects that status. Under the collective bargaining agreement, an employee is an at-will employee for the first 6 months of his or her employment with Minteq. There is nothing in Section 12 that reasonably would lead an employee to conclude that he or she is waiving his or her Section 7 rights (assuming that he or she is aware that they have such rights). Even employees who are at-will employees throughout their employment retain their Section 7 rights.

Direct Dealing

An employer violates Section 8(a)(5) and (1) by dealing directly with represented employees under the following conditions: 1) the employer communicates directly with union-represented employees; 2) the communication concerned establishing wages, hours and/or other terms and conditions of employment, or undercutting the Union's role in collective bargaining; and 3) such communication was made to the exclusion of the Union, *El Paso Electric Co*., 355 NLRB No. 95 (2010). As the first condition, whether or not individuals were bargaining unit employees when they signed the NCCA is irrelevant. That is because the NCCA impacted their rights while they were covered by the parties' collective bargaining agreement. As to condition number 2, signing the NCCA subjected the individual to discipline or termination during his employment. As to condition 3) Respondent excluded the Union in its communications with employees concerning the NCCA. Finally, by imposing a condition of employment on bargaining unit members of which the Union was unaware, Respondent undercut the Union's role as these employees' collective bargaining representative. Thus, Respondent engaged in unlawful direct dealing in requiring new employees to sign the NCCA.

Conclusion of Law

Respondent violated section 8(a)(5) and (1) by unilaterally requiring new employees to sign Sections 2 and 13 of its non-compete confidentiality agreement and dealing directly with new employees in imposing this requirement.

Respondent is violating Section 8(a)(1) and the Act in maintaining the rules set forth in Sections 2 and 13 of the NCCA.

REMEDY

Having found that the Respondent has violated the Act by failing to notify and offer the Union an opportunity to bargain concerning the imposition of the requirement that all new employees sign and abide by Sections 2 and 13 of its non-compete and confidentiality agreement, it shall cease and desist and take certain affirmative action necessary to effect the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[9]

ORDER

The Respondent, Minteq, International, Inc., and Specialty Minerals, wholly owned subsidiaries of Mineral Technologies, Inc., its officers, agents, successors, and assigns, shall

[9] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

1. Cease and desist from

(a) Unilaterally announcing and implementing Sections 2 and 13 of its Non-Compete and Confidentiality Agreement (NCCA).

(b) Bypassing the Union and dealing directly with employees in the "gunner" bargaining unit regarding the terms and conditions of their employment.

(c) Maintaining the rules set forth in Sections 2 and 13 of the NCCA.

(d) In any like or related manner, interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind Sections 2 and 13 of its Non-Compete and Confidentiality Agreement.

(b) Upon request, bargain with the Union over Sections 2 and 13 of the Non-Compete and Confidentiality Agreement.

(c) Make whole all employees adversely affected by the unlawful implementation of Section 2 and 13 of the Non-Compete and Confidentiality Agreement

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at all its subject to the non-compete and confidentiality agreement copies of the attached notice marked "Appendix."[10] Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the

10 If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

notice to all current employees and former employees employed by the Respondent at any time since January 1, 2012.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., December 23, 2015.

Arthur J. Amchan
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT bypass the Union and deal directly with represented employees regarding their wages or other terms and conditions of employment.

WE WILL NOT unilaterally and without bargaining with the Union impose and require as a condition of employment that employees or job applicants sign a Non-Compete and Confidentiality Agreement that contains language similar to Section 2 and 13 of our current Non-Compete and Confidentiality Agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL rescind the unilateral changes in Sections 2 and 13 of our current Non-Compete and Confidentiality Agreement.

WE WILL, on request, bargain with the Union about our decision and effects of our decision to implement Sections 2 and 13 of current Non-Compete and Confidentiality Agreement.

MINTEQ INTERNTIONAL, INC., AND SPECIALTY MINERALS, INC., WHOLLY OWNED SUBSIDIARIES OF MINERAL TECHNOLOGIES, INC

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

The Rookery Building, 209 South LaSalle Street, Suite 900, Chicago, IL 60604-1443
(312) 353-7570, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/13-CA-108215 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (312) 353-7170.